IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 5783/2001

KHAIRATI LAL Vs. STATE OF RAJASTHAN & ORS.

DATE: 20.09.2007

HON'BLE MR. JUSTICE K.S. RATHORE

Dr. P.C. Jain for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.

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The petitioner's khatedari land bearing Khasra Nos. 220, 218 Min, 219 Min, total measuring to 19 Biswas situated at Village Govindgarh Patwar Halka, Govindgarh was acquired by the Land Acquisition Officer for the purpose of laying down road from Govind to Sikri. It is alleged in the writ petition that the possession of the acquired land was taken by the respondents long back but no compensation was granted and an award was passed on 18.04.2000 and the same was confirmed by the State Government vide order dated 10.07.2000.

It is also not disputed that the compensation in lieu of acquisition has been assessed to the tune of Rs. 1,24,640/- as per Annexure-1, the notice issued by the respondents under Section 12(2) of the Rajasthan

Land Acquisition Act, 1894 and as the respondents have not paid compensation, therefore, this writ petition is preferred by the petitioner seeking writ of mandamus to direct the respondents to make the payment of acquisition amount along with interest.

It is not disputed that the present writ petition has been filed by the petitioner without serving notice for demand of justice and in the absence of notice for demand of justice, no writ of mandamus can be issued by this Court. Though this writ petition is not maintainable for issuing writ of mandamus but the matter is considered on its merit.

Learned Govt. Advocate submits that the payment of Rs. 1,19,439/- has been made to the petitioner through D.D. dated 30.03.2002 and the petitioner executed a receipt in pursuance thereof and a copy of the same is also annexed along with the reply as Annexure-R/1. For the balance amount of compensation, the respondents have submitted that the Assistant Commissioner of Income Tax Department on 02.09.98 wrote a letter to the Executive Engineer regarding deduction of income tax upon the interest amount of compensation.

The grievance of the petitioner is that the payment has been made as compensation amount which does

not include the interest part, but the submissions made on behalf of the petitioner have been strongly controverted by the learned Govt. Advocate.

Upon perusal of Annexure-R/2, the letter dated 02.09.98 written by the Assistant Commissioner, it reveals that they have deducted the income tax at source under Section 194-A of the Income Tax Act, 1961 on the payment of interest on compensation amount and it was also observed that interest exceeding Rs. 2500/- income tax at source has been deduced from the amount of interest.

In view of the submissions made on behalf of the respective parties, I find no merit in the writ petition as the respondents are able to make out a case that payment of compensation along with interest has been made to the petitioner and the income tax Department has rightly deducted the income tax at source from the interest part and the petitioner is not able to make out any case in his favour, which requires any interference by this Court.

Consequently, the writ petition fails being devoid of merit and the same stands dismissed.

The stay application also stands rejected.

(K.S. RATHORE),J.

/KKC/